

**REMARKS****Status of Claims**

Claims 1-11 are pending in the instant application. Claims 6-8 stand withdrawn from consideration. Claims 1-5 and 9-11 stand rejected. Favorable reconsideration is respectfully requested in light of the following remarks.

**Election/Restrictions**

Applicant hereby affirms the provisional election with traverse of claims 1-5 and 9-11.

**Double Patenting**

Claims 1-5 and 9-11 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-7 and 13-17 of co-pending application no. 09/894,671.

Applicant hereby submits a terminal disclaimer under 37 CFR 1.321(c) and respectfully requests that the double patenting rejection be withdrawn.

**Amendments to Claims**

Applicant has amended claims 1 and 9 to clarify that "the water vapor transmission rate for said laminate is under about 1.0 g/h·m<sup>2</sup>". No new matter has been added and support for the amendment may be found in the specification at page 10, paragraph 2 to page 11, paragraph 1. Further, Applicant has amended claim 1 to correct the language "consistently essentially of" to "consisting essentially of". This error was typographical in nature.

**Rejection of claim 13-17 under 35 USC 112**

Claims 9-11 stand rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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The Examiner states that claim 9 is indefinite as being incomplete for omitting essential structure cooperative relationships of elements, such omission to a gap between the necessary structural connections. The Examiner states that the omitted structural cooperative relationships are: Claim 9 does not clearly define the spatial relationship of the various layers.

Applicant has amended claim 9 to clearly define the relationship of the various layers. Claims 10-11 depend from newly amended claim 9 and contain the limitations thereof. Applicant respectfully submits that the 35 USC 112 rejection has been overcome and respectfully request that the 35 USC 112 rejection of claims 9-11 be withdrawn.

**Rejection of claims 1-5 and 9-11 under 35 USC 103(a) (McBride or AAPA in view of Briggs)**

Claims 1-5 and 9-11 stand rejected under 35 U.S.C. 103(a) as being unpatentable over McBride or Applicant's Admitted Prior Art (AAPA) in view of Briggs. The Examiner states that it would have been obvious to a person having ordinary skill in the art to utilize the LDPE adhesive of Briggs in the laminate of McBride or AAPA.

McBride teaches an insulation assembly having exterior covers on opposite sides of the insulation. The exterior covers may be polyethylene, kraft paper or Mylar (cols. 4-5, lines 65-5). AAPA teach a glass wool blanket having a kraft paper/polyethylene vapor barrier. Applicant's specification further teaches that conventional insulation facing products fail to meet PERM (water vapor transmission rate) requirements (specification, page 2). Briggs teach a rigid foam product which may contain fibrous material to reinforce the vermiculite layer of the rigid insulation (col. 3, lines 26-36).

As stated above, Applicant has amended claim 1 to correct the claim language to read "consisting essentially of" and to add the limitation of the water vapor transmission rate. Nowhere does McBride, AAPA nor Briggs teach or suggest "a

flexible planar laminate comprising a layer of kraft paper having a vapor barrier consisting essentially of a high melting point polymer to which is adhered an adhesive layer of low melting point polymer, wherein the water vapor transmission rate for said laminate is under about  $1.0 \text{ g/h}\cdot\text{m}^2$  as Applicant claims.

In view of Applicant's amendments to claim 1, it would not have been obvious to one of ordinary skill in the art to combine the teachings of McBride or AAPA with Briggs. Claims 2-5 ultimately depend from newly amended claim 1 and contain the limitations thereof.

Regarding claim 9, Applicant has amended claim 9 to clearly define the relationship between the layers of fiberglass insulation, kraft paper, LDPE and HDPE. Further, Applicant has amended claim 9 to clearly define the laminate as having a "water vapor transmission rate for said laminate is under about  $1.0 \text{ g/h}\cdot\text{m}^2$ ". Neither McBride, AAPA nor Briggs teach or suggest Applicant's fiberglass insulation product as claimed. Claims 10-11 depend from claim 9 and contains the limitations thereof. Accordingly, it is respectfully submitted that claims 9-11 are clearly allowable.

Accordingly, it is respectfully requested that the 103(a) rejection of claims 1-5 and 9-11 be withdrawn.

**Rejection of claims 1-5 and 9-11 under 35 USC 103(a) (Patel et al. and Berdan II et al.)**

Claims 1-5 and 9-11 stand rejected under 35 USC 103(a) as being unpatentable over Patel et al. and Berdan II et al.

The Examiner states that it would have been obvious to a person having ordinary skill in the art to utilize a kraft layer in the insulation of Patel or Berdan II. The Examiner further states that such a modification would have been motivated by the desire to improve the product integrity and handleability of the insulation.

As stated above, Applicant has amended claim 1 to correct the claim language to read "consisting essentially of" and to add the limitation of the water vapor transmission rate. Nowhere does Patel nor Berdan teach or suggest "a flexible planar

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laminate comprising a layer of kraft paper having a vapor barrier consisting essentially of a high melting point polymer to which is adhered an adhesive layer of low melting point polymer, wherein the water vapor transmission rate for said laminate is under about  $1.0 \text{ g/h}\cdot\text{m}^2$  as Applicant claims.

In view of Applicant's amendments to claim 1, it would not have been obvious to one of ordinary skill in the art to combine the teachings of Patel and Berdan. Claims 2-5 ultimately depend from newly amended claim 1 and contain the limitations thereof.

Regarding claim 9, Applicant has amended claim 9 to clearly define the relationship between the layers of fiberglass insulation, kraft paper, LDPE and HDPE. Further, Applicant has amended claim 9 to clearly define the laminate as having a "water vapor transmission rate for said laminate is under about  $1.0 \text{ g/h}\cdot\text{m}^2$ ". Neither Patel nor Berdan teach or suggest Applicant's fiberglass insulation product as claimed. Claims 10-11 depend from claim 9 and contain the limitations thereof. Accordingly, it is respectfully submitted that claims 9-11 are clearly allowable.

Accordingly, it is respectfully requested that the 103(a) rejection of claims 1-5 and 9-11 be withdrawn.

### Conclusion

Applicant respectfully submits that claims 1-5 and 9-11 are allowable. If any questions should arise with respect to the above Remarks, or if the Examiner has any comments or suggestions to place the claims in better condition for allowance, it is requested that the Examiner contact Applicant's agent at the number listed below.

Applicant encloses a Request for a One-Month Extension of Time herein and authorizes that the fee (\$110.00) be charged to Deposit Account No. 50-0568. Further, Applicant encloses a Terminal Disclaimer and authorizes that the fee (\$110.00) be charged to Deposit Account No. 50-0568.

Applicant authorizes any additional fees required pertaining to this response be charged to Deposit Account No. 50-0568.

Respectfully submitted,

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